

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NO. E-21594
--	--------------------

**ORDER GRANTING, WITH CONDITIONS, REQUEST FOR SEPARATE
CONSIDERATION OF ELECTRIC FRANCHISE SEGMENT**

(Issued April 23, 2003)

On January 8, 2002, MidAmerican Energy Company (MidAmerican) held an informational meeting in Ankeny, Iowa, for approximately 12 miles of 161,000-volt electric transmission line proposed for construction in Polk County, Iowa. The proposed project would run from the existing Sycamore Substation in the city of Johnston generally east then north to the existing Ankeny Substation within the city limits of Ankeny (south segment); then generally east and north to a proposed new Northeast Ankeny Substation (central segment); and then north to connect to an existing Alliant Energy electric transmission line (north segment).

While the line in question is actually longer than 12 miles, several miles are within the city limits of Ankeny. The Utilities Board (Board) does not have franchise jurisdiction over that portion of the project. Iowa Code § 478.1. The 12-mile project was identified as Docket No. E-21594.

Subsequent to the informational meeting, nine objections to the project were filed with the Board. All of the objections opposed the line's proximity to the

Carney Marsh in southeast Ankeny, contending that the line would endanger migratory waterfowl. The marsh is adjacent to the Sycamore-to-Ankeny segment described above, which is the south segment.

MidAmerican subsequently decided to seek individual franchises for each of the three project segments described above. On May 30, 2002, MidAmerican filed a petition for electric franchise, including the right of eminent domain, for the south segment (5.15 miles). It was assigned Docket No. E-21569 – the number originally assigned to the entire project. On August 22, 2002, MidAmerican filed a petition for electric franchise for the north segment (1.22 linear miles, double circuited). Eminent domain was not requested for this segment, which was assigned Docket No. E-21594. No petition has been filed for the central segment.

Because of the objections on file and the eminent domain request, Iowa Code § 478.6 requires a hearing be held in Docket No. E-21569. By letter dated November 26, 2002, the Board's staff advised MidAmerican of its belief that the petitions in all three of these dockets should be consolidated for the hearing because the objections filed following the informational meeting could not be presumed to be applicable to only one segment of the entire project. At the informational meeting, MidAmerican presented the project as one project, not three.

On March 11, 2003, MidAmerican filed a "Request for Issuance of Electric Franchise" in Docket No. E-21594, the north segment. MidAmerican contends that each of the three segments, although related, are physically and functionally

separate. MidAmerican points to the separate timetables proposed for the construction of the segments as evidence that the segments are not dependent upon each other. MidAmerican states that the north segment is needed now because its 69,000 volt system in the Ankeny area will be loaded to nearly 100 percent at 2003 normal summer weather, and MidAmerican needs to serve distribution load from its new Northeast Ankeny Substation prior to the summer of 2003. MidAmerican further argues that the filed objections relate solely to the south segment and are not relevant or applicable to the north segment. MidAmerican states it has all necessary easements for the north line and that all requirements have been met for issuance of a franchise in Docket No. E-21594.

On March 18, 2003, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a "Statement of Non-Opposition" to the request for separate consideration and the grant of franchise for the north segment. No other comments have been received.

The Board finds that from the information filed to date, it appears that the north segment, by feeding a new substation in northeast Ankeny that would alleviate the near-overload of existing electric lines serving that area, may serve a public use on its own merits and exclusive of additional benefits that may derive from future incorporation into a 161,000 volt loop around Ankeny. It also appears that the construction of this line is of some urgency. Further, this segment is over four miles from the Carney Marsh at its closest point, including areas within the corporate limits of Ankeny, so it appears unlikely that franchise action taken

regarding the north segment would affect this area. The Board will allow the north line segment proposed in Docket No. E-21594 to be considered on its own merits as a stand-alone project.

However, while the north segment may be considered as a stand-alone project, the Board finds that pursuant to Iowa law and the Board's rules, a franchise for the north segment cannot be issued at this time. The normal procedures for consideration of a franchise petition must be followed. If the filed objections are presumed to apply only to the south segment, then there must be a notice published with respect to the north segment allowing interested persons an opportunity to file an objection. 199 IAC 11.5.

In order to clarify the record and prevent confusion on the part of interested parties, the Board will condition its approval of MidAmerican's request for consideration of the north segment on a stand-alone basis on MidAmerican complying with the following:

First, 199 IAC 11.5(2)"c" requires that the published notice include either a map of the route or instructions on how interested persons can obtain a map. The utility generally has the choice of options. However, to minimize confusion and uncertainty over the location of the north segment in relation to the total project as described at the informational meeting, the Board will require in this instance that the map be published with the notice. This will necessitate that MidAmerican refile its petition for franchise. If a map other than the current Petition Exhibit B map will be published, a copy of that map must also be filed.

Second, Iowa Code § 478.4 requires that before granting a franchise, the Board must find that a proposed electric line is “necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.” Petition Exhibit D contains MidAmerican’s explanation of how the project would meet this test. The Exhibit D currently on file contains only one sentence on the stand-alone benefits of this project. All other justification provided is within the context of the overall loop project. MidAmerican will be required to refile Exhibit D to explain in greater detail how this project can pass the required legal test on a stand-alone basis.

In addition, the Board will provide persons who filed objections to the original 12-mile, single project with a copy of this order. Objections those persons filed will not be considered applicable to the north segment (Docket No. E-21594). If those persons filing objections to the original 12-mile project want to object to the north segment, a separate objection must be filed with the Board.

A hearing will be held in a separate proceeding regarding the south segment near the Carney Marsh. The hearing date has not been set and those persons who have filed objections will be notified of the hearing date in a subsequent order.

IT IS THEREFORE ORDERED:

1. The request filed by MidAmerican Energy Company on March 11, 2003, is granted to the extent that the franchise process for the north segment will be allowed to proceed independently from the other two segments of the project, subject to the conditions contained in the body of this order.

2. Objections filed to the original 12-mile electric transmission line franchise request will not be considered applicable to the north segment (Docket No. E-21594). Persons wishing to object to the north segment (Docket No. E-21594) must file with the Board a separate objection to that segment.

3. Copies of this order shall be provided to all persons who filed objections to the original 12-mile electric transmission line described at the informational meeting.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 23rd day of April, 2003.